

## SECOND DIVISION

[ G.R. NO. 142571, May 05, 2006 ]

**NATIONAL IRRIGATION ADMINISTRATION, PETITIONER, VS.  
LEONCIO C. ENCISO, RESPONDENT.**

### D E C I S I O N

**GARCIA, J.:**

The instant petition for review on certiorari under Rule 45 of the Rules of Court seeks to nullify and set aside the **Decision dated March 20, 2000<sup>[1]</sup>** of the Court of Appeals (CA) in *CA-G.R. CV No. 59681* affirming an earlier decision of the Regional Trial Court (RTC) of Makati City, Branch 141, in its Civil Case No. 94-005, an action for a sum of money with damages thereat commenced by the respondent against the herein petitioner, its Administrator and its Assistant Administrator for Systems and Operations and Equipment Management.

Succinctly summarized by the Court of Appeals in the assailed decision are the following undisputed facts:

Records show that in 1984, defendant-appellant [petitioner] National Irrigation Administration (NIA) commenced the widening of the Binahaan River in Brgy. Cansamada, Dagami, Leyte. This project was divided into small sections costing not more than P50,000.00 each so as not to require public bidding. However, pre-bidding was nevertheless conducted by NIA and participated in by different contractors to determine the possible lowest bid which shall serve as the cost of the project. With this arrangement, contractors are assigned to work on specific sections without formal contracts. When the works for the assigned sections are completed to NIA's satisfaction, NIA will then prepare the requisite contract and other pertinent documents so that the contractor can collect payment.

Plaintiff-appellant [respondent] Enciso, doing business as a contractor under the name LCE Construction, worked on a portion of the river from "station 16 + 400 to station 16 + 900". His first billing of P227,165.90 was paid by NIA. However, his second and final billing of P259,154.01 was denied on the ground that the work done on the right side of the river was not accomplished. [Words in bracket supplied.]

Respondent finally instituted a complaint for collection of a sum of money with damages and attorney's fees with the RTC of Makati City, thereat docketed as Civil Case No. 94-005 and eventually raffled to Branch 141 thereof. Petitioner and co-defendants filed a motion to dismiss on grounds of non-exhaustion of administrative remedies and lack of cause of action. The RTC denied the motion and proceeded to trial.

In a decision dated February 27, 1998, the RTC rendered judgment for respondent, as plaintiff, holding petitioner, as defendant, liable, thus:

WHEREFORE, judgment is hereby rendered ordering defendant National Irrigation Administration to pay plaintiff the sum of P259,154.01 with legal rate of interest of 12% per annum effective on 1 August 1985 until fully paid; P50,000.00, as and for attorney's fees; and the costs of suit.

SO ORDERED.

Both parties went up to the Court of Appeals (CA). For its part, petitioner contended that the trial court erred in denying its motion to dismiss and thereafter holding it liable to respondent. On the other hand, respondent interposed that the trial court erred in failing to hold petitioner's co-defendants personally liable for damages and in adjudging petitioner NIA solely liable based on the face value of the work accomplished in 1985. The CA, however, found no reversible error in the appealed decision and affirmed it as follows:

WHEREFORE, finding no reversible error in the appealed decision which is in accord with the evidence and jurisprudential principle on the matter, the same is hereby AFFIRMED.

SO ORDERED.

Only petitioner NIA came to this Court *via* this petition for review raising the following issues for resolution:

THE COURT OF APPEALS ERRED IN AFFIRMING THE RULING OF THE REGIONAL TRIAL COURT DENYING PETITIONER'S MOTION TO DISMISS (ANNEX "C" HEREOF) WHICH AVERRED, AMONG OTHER THINGS, THAT RESPONDENT FAILED TO EXHAUST ADMINISTRATIVE REMEDIES AVAILABLE TO HIM UNDER THE LAW.

THE COURT OF APPEALS ERRED IN DECLARING THAT PETITIONER IS LIABLE TO RESPONDENT FOR THE ALLEGED WORK AT PETITIONER'S PROJECT THOUGH THE ALLEGED ASSIGNMENT WAS DONE IN VIOLATION OF EXISTING RULES AND REGULATIONS.

The Court finds the petition **meritorious**.

Petitioner raised the issue of non-exhaustion of administrative remedies in its appeal before the CA, on account of respondent's failure to file his claim before the Commission on Audit (COA) prior to instituting a complaint for collection of sum of money with the RTC. Instead of addressing the question, however, the CA discussed NIA's separate and distinct corporate personality from the government or the State, which is a non-issue. What the CA failed to rule upon is, given the fact that NIA is a government entity vested with a separate corporate personality from the State, whether NIA, being a government entity disbursing public funds or tax-payers' money is subject to the jurisdiction of COA such that any claim for collection of sum of money against it, specially in this instance where it is not covered by any written contract, must be initially lodged before the COA.

The issue should have been resolved in the affirmative.